SANJIV

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1409 OF 2006

Ramraj Ramkrishan Vishwakarma ....Petitioner

Vs.

The State of Maharashtra ....Respondent

Mr Rishi Bhuta for petitioner.

Ms. M. H. Mhatre, APP for the State.

CORAM : SMT. RANJANA DESAI, J.

DATE : 7TH DECEMBER, 2006.

P. C.:-

1. In this writ petition the petitioner has challenged the order dated 26/12/2005 passed by the Metropolitan Magistrate, 22nd Court, Andheri, Mumbai, on the application for return of property filed by the petitioner.

2. The case of the prosecution is that the accused was plying the

taxi. The taxi was out of order and hence he purchased a fiat car No. MH-03- B-1582 from one Rajesh Mistry and without permission of RTO, he replaced the chassis number and engine from his taxi. He painted the said fiat car as taxi; he mentioned the registration number of his taxi and thereafter, he was using both the vehicles by the same RTO registration numbers. It appears that as per the RTO record, the fiat car stands in the name of one Kishor Shah who had sold it to Rajesh Mistry and said Rajesh Mistry sold it to the petitioner.

3. The learned Magistrate while rejecting the application has observed that without permission of the RTO, the petitioner has replaced the engine and chassis of the fiat car. He has further observed that if the original taxi is returned to the petitioner, he will use it by different chassis and engine number which is not registered by the RTO authorities and therefore, the original taxi cannot be returned to the petitioner. No fault could be found with the reasoning of the learned Magistrate. Learned counsel for the petitioner contended that the petitioner has complied with the necessary

formalities and submitted form for registration of the vehicle and the RTO has passed an order calling upon him to produce the vehicle before it. He submitted that in the circumstances, vehicle may be ordered to be handed over to the petitioner.

4. In my opinion, considering the nature of the allegations, the learned Magistrate has rightly not returned the vehicle to the petitioner. No interference is necessary with the impugned order. However, in the circumstances of the case, pending case in the 22nd Metropolitan Magistrate Court, Andheri, arising out of C. R. No. 464 of 2005, MIDC Police Station, is expedited. Learned Magistrate should dispose of it as early as possible at any rate within a period of 8 months from the date of receipt of this order. The petition is rejected.

(SMT. RANJANA DESAI, J)